Responsibility to Protect (R2P) and Its Implementation: A Glance on Kosovo, Chechenia, Libya, and Syria

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ABSTRACT

The Responsibility to Protect (R2P) norm is a rule that was propounded based on established principles of international law. The several horrible violent conflicts at the end of the twentieth century, which led to unspeakable human rights atrocities and innocent civilians being killed, made clear that the international community should act. The objective of the research is to provide comparative strategies for the maintenance of peace and security in Kosovo, Chechenia, Libya, and Syria. The purpose is to understand the situations of regional security and veto power nations regarding R2P, unearth challenges and highlight some of the success stories. The existing research shall be doctrinal research and limited to the aforesaid states.

Keywords: *Peace, R2P, UN Security Council, Syria Crisis.*

I. INTRODUCTION

This paper adheres to the definition of R2P as proposed by the UN Secretary-General, who – drawing from the wordings of the 2005 World Summit Outcome Document, identified R2P as a concept consisting of three pillars: (1) The primary responsibility of states is to protect their own populations from the four crimes of genocide, war crimes, ethnic cleansing, and crimes against humanity, as well as from their incitement. (2) The international community's responsibility to assist a state in fulfilling its R2P. (3) The international community's responsibility to take timely and decisive action, in accordance with the UN Charter, in cases where the state has manifestly failed to protect its population from one or more of the four crimes.[2] It is undeniable that every conflict is different and in every case other interests are at stake. This is the reason I have chosen four case studies to be compared. The case studies I have considered here are Kosovo, Chechnya, Libya and Syria. Kosovo and Chechnya present two case studies prior to the establishment of the norm in which intervention happened in Kosovo and not in Chechnya. Both cases have in common that they are both in Eastern Europe, in both

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2- UN Secretary-General, Implementing the Responsibility to Protect, 2009, A/63/677. 8 Stahn, Responsibility to Protect, at pg 110.

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cases they fight for independence and both cases dealt with a humanitarian crisis. But, after looking closer into the two cases there are also a lot of difference between the two cases. The background of the two cases is different looking at the demographics, history and political situation.

The international community involvement differs from each other and the interests at stake differ. The Responsibility to Protect is a political and legal norm and not one or the other. It dependents on the conflict and the parties involved which side of the norm gets precedence over the other To test the discrepancy between the norm on paper and the impact in practice I have chosen two case studies: Libya and Syria. Although, both cases are of very recent nature, they both contribute a lot to my hypothesis. Libya case shows a textbook example of implementing the written Responsibility to Protect norm in practice. There is no discrepancy between purpose and impact. And that the Syria case shows a textbook example of discrepancy between a written norm and application of the norm in practice. There is a discrepancy between purpose and impact. The two cases both have the same background of establishment of the conflict. Both states were influenced by the Arabic revolts against the current regimes and their leaders. In both states the opposition wanted democracy and protested in the streets. In both cases the demonstrations were put down violently which ended in a violent conflict between government troops and opposition troops. So why did the international community apply the Responsibility to Protect norm in Libya and not in Syria?

II. KOSOVO CONFLICT- A HUMANITARIAN INTERVENTION

One of the most interesting cases for the establishment of the Responsibility to Protect norm is the humanitarian intervention in Kosovo. The Kosovo conflict is about the will of the Kosovo Albanians to establish an independent state free from the Federate Republic of Yugoslavia (FRY). Serbia, however, was not willing to let Kosovo separate from the Federate Republic of Yugoslavia. The situation became very violent at the end of the 1990s after which NATO could not ignore the situation and had to intervene to prevent a humanitarian crisis[3]. This summarizes the Kosovo case in just a couple of sentences, but the true reasoning behind the conflict is much more complicated of course as was the situation around the intervention by the international community. Vital aspects to be analysed in this case is which factors lead up to the Kosovo conflict in which the international community felt it had a responsibility to protect the civilians targeted? Why is the Kosovo conflict of importance for the establishment of the Responsibility to Protect norm?

3- Welsh, J.M. (2004), 'Humanitarian Intervention and International Relations', Oxford: University Press. 110 111

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(A) Background to the Kosovo Conflict

Both Serbs and Albanians claim to have a historical right to the territory. The earliest known inhabitants of Kosovo were the Illyrians which are the ancestors of the Albanians (Malcolm, 1998: 340). However, the Serbians claim that they lived first in the territory of Kosovo dating back to the sixth century. The Albanians appeared in the area by the early Middle Ages as nomadic shepherds. By the 12th century almost all Kosovo region was in Serbian hands and Kosovo was their administrative and cultural centre.[4] However in 1389, in the Battle of Kosovo Polje, the Serbs were defeated by the Ottoman Turks. Kosovo became part of the Ottoman Empire. Afterwards Serbs left Kosovo in large numbers. As a result, Kosovo was resettled by Albanians. The Serbs took over Kosovo control again by 1912[5]. At the Conference of Ambassadors in London in 1912 Serbia was given sovereignty over Kosovo which remained until the end of the Kosovo crisis. Within Kosovo there was much anti-Serbian sentiment since the population was still mostly Albanian. By 1912 around 64 percent of the population of Kosovo was Albanian[6]. During the Second World War nearly 100.000 Albanians moved into Kosovo territory. In 1940 the Communist Party of Yugoslavia had accepted in writing an autonomous "Peasant Republic of Kosovo", but the promise was not kept. After the war, thousands of Serbs were prohibited from returning to Kosovo, and thousands of Albanians immigrated into Kosovo. In 1967 Tito changed his policy in favour of Kosovo. Tito gave more concessions to the Albanian population related to Albanian nationalism, languages, and education and other cultural issues. Because of the immigration of Albanians, the emigration of Serbs, and a very high Albanian birth rate, between1961-1971 Albanian population increased from 67 percent to 77 percent of the Kosovo population.[7] These developments continued and intensified. The 1974 constitution made Kosovo an Autonomous province within the Federation and gave it an equal status as the other territories within the Federation of Yugoslavia. Tito died on May 4, 1980 after which tension led up again. The extremist part of the Kosovo Albanians desired an ethnically clean Kosovo and intimidated the Kosovo Serbs. Kosovo Serbs protested by the Serbian government about their status in Kosovo. By1987 the Serbian government proposed to end Kosovo's autonomy. Officially Serbia could not achieve this because Kosovo was under Federal rule and not Serbian. By the beginning of the 1990s Kosovo Albanians made up ninety percent of the Kosovo population. Slobodan Milosevic came to power as president of

4- Vickers, M. (1998), 'Between Serb and Albanian: A history of Kosovo'. New York: Columbia University Press. Stephen Walt (2009), 'Alliances in a UniPolar World', 18-21
5- Malcolm, N. (1998), 'Kosovo A Short History'. London, Basingstoke and Oxford: Pan Macmillan. 332
6- Supra note 2 pp 32-33
7- Supra note 3 pp 34

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Serbia in late 1987. The process to abolish Kosovo autonomy began in March 1989 when Serbia gained direct control over Kosovo. Serbia wanted peaceful co-existence in Kosovo and adopted the "Program for Achieving Peace, Freedom and Equality in Kosovo (1990)"[8]. Kosovo Albanians, however, did not accept Serbia authority. In 1990, Kosovo Albanians proclaimed the Sovereign Republic of Kosovo. Serbia then officially dissolved Kosovo's government, took executive control and dissolved Kosovo's autonomy. The emergency measures imposed by Serbia resulted in a de Albanianization of cultural and educational institutions in Kosovo with a consequent re-Serbianization occurring[9]. In response Albanian Kosovars adopted a constitution for their Republic of Kosovo.

The League for a Democratic Kosovo (LDK) developed quickly into 700.000 members. In September of 1991 the un-recognized Republic of Kosovo approved a resolution proclaiming the independence and sovereignty of Kosovo. In the summer of 1992 Albanians and Serbs in Kosovo lived almost in complete isolation of each other.

After the Dayton Accord it became mainly violent. The National Movement for the Liberation of Kosovo and the Kosovo Liberation Army (KLA) entered into a violent campaign to radicalize the situation. Serbia acted brutally to stop the insurgence by the KLA. This made the Kosovo Albanians support the KLA even more. Both sides committed horrible human rights violations, only the crimes committed by Serbia were by government groups and the Kosovo Albanians by a small rebel underground group.

(B) Involvement of the International Community

To stop the tensions between Serbs and Albanians Martti Ahtisaari, chairman at the peace conference in Rambouillet, France (January 1999) warned that NATO was ready to use military force to enforce a peace settlement. Present were the Western allies, Yugoslavia and representatives of the major Albanian Kosovar groups demanding independence. At the conference, a two-week deadline was issued to accept the peace proposal. Consequence would be, by not complying before the deadline passed, airstrikes would be carried out by NATO. The settlement of the peace proposal consisted of the demand on Yugoslavia to withdraw its forces from Kosovo, for the KLA to lay down their arms and that NATO peace-keeping troops be allowed on the ground to enforce the agreement[10]. A three-year waiting period was instigated to settle the political future of Kosovo. The Kosovo Albanians signed the agreement, but the

8- See Jansen, G.R (1999), 'Albanians and Serbs in Kosovo: An Abbreviated History- An Opening for the The Islamic Jihad in Europe', Colorado: State University Fort Collins.

9 - ibid

10- International Crisis Group, Kosovo and Serbia after the ICJ Opinion (Pristina/Belgrade/Brussels, 2010, Europe Report No. 206).

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Serbs were not willing to accept Kosovo independence. Serbia also was not willing to give up many aspects of its national sovereignty. By February 1999 tension kept rising and a war between the Kosovo Albanians and Serbia seemed to be unavoidable. Both sides committed horrible crimes and fought the war making a lot of innocent casualties. I think it is remarkable that the international community put the blame for the violence in Kosovo on Milosevic. The international community imposed several demands on Serbia which it did not comply with.

However it was the KLA, who sensed that NATO was on its side and intensified its military efforts. This led the Serbs to intensify their military campaign. The UN Security Council only responded to the escalation of the violence in 1999 by imposing a weapons embargo and economic and diplomatic sanctions on the Federal Republic of Yugoslavia. NATO, on the contrary, judged UN actions not adequate enough and threatened Belgrade with air strikes. NATO interpreted UN Security Council Resolution 1199 of 23 September 1998 as a legitimization for the use of force against the Federal Republic of Yugoslavia because the UN called for a complete access for humanitarian organizations[11]. After an ultimatum issued by NATO, Yugoslav President Slobodan Milosevic and US special envoy Richard Holbrooke agreed in October 1998 on a partial withdrawal of the Serbian military forces, but the stop of violence was only for short time and in March1999 NATO started an air campaign against the Federal Republic of Yugoslavia.

(C) A Responsibility to end Humanitarian Crisis

The NATO bombing campaign was aimed to force the Serbian side to accept the Rambouillet agreement and prevent a humanitarian crisis. NATO expected that it would take only a few days to bring the Belgrade government to surrender, but instead the military operation took eleven weeks before the war ended[12]. The intervention took so much time and effort, because Serbian military reacted with extreme violence against the Albanian civilian population. In June 1999, representatives of the Yugoslav military and NATO came up with a military-technical agreement on the withdrawal of Yugoslav troops from Kosovo, which ended the war. On the basis of Resolution 1244 of 10 June 1999 and the report of the Secretary General of 12 June, the NATO-led Kosovo Force (KFOR) established its presence in Kosovo.[13]

NATO conducted military intervention in Kosovo without approval of the UN Security Council. The Kosovo case raised a difficult situation for the international community. The international

11- Resolution 1244 of 10 June 1999 and the report of the Secretary General of 12 June (S/1999/672) S/RES/1199 of 23 September 1998 S/RES/1203 of 24 October 1998
12- Charney, J. I (1999), 'Anticipatory Humanitarian Intervention in Kosovo', 93 (4), pp. 836-839.
13- Resolution 1244 of 10 June 1999 and the report of the Secretary General of 12 June (S/1999/672)

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community had to choose between human rights protection and respecting sovereignty rights. It became clear that economic sanctions and diplomatic pressure was not enough in the case of Kosovo. In certain cases military intervention is necessary to prevent (more) atrocities to take place. However, the UN could not give its consent to military intervention in Kosovo because of the veto rights of China and Russia. The UN did not have a back-up plan when the Rambouillet talks would fail[14].

The NATO Treaty acknowledges that the "Military intervention is the primary responsibility of the Security Council for the maintenance of international peace and security"[15]. But, NATO felt the moral need to stop a humanitarian catastrophe in Kosovo and support international efforts to secure a peaceful settlement. The UN Security Council could not forcefully take action, because of the objections by Russia and China to humanitarian intervention in Kosovo. NATO unilaterally decided to intervene, "The choice of NATO to intervene was clearly a European response to a European problem and according to NATO it was not precedent for action outside Europe"[16].

NATO was convinced that the human rights situation and the threat for Europe by spreading violence and refugee spoil-over would legitimize their decision to intervene. Gray[17] formulated it as "these tensions could lead to crises inimical to European stability and even to armed conflicts which could involve outside powers or spill over into NATO countries, having a direct effect on the security of the Alliance". NATO did not want to set a precedent or make military intervention a regular form of action, but felt the moral need to intervene in the Kosovo case. NATO states could point to numerous arguments to support their view of the legitimacy of the humanitarian intervention in Kosovo. The Federal Republic of Yugoslavia (FRY) refused to comply with the Security Council resolution 1199 based on Chapter VII of the UN Charter which intended the Federal Republic of Yugoslavia to halt hostilities, and take immediate steps to prevent a humanitarian catastrophe.

NATO bombing was intended to positively improve the situation in Kosovo for the civilians. Consequences of the air strikes by NATO were not all positive. Instead of backing down the Serbs stepped up their war effort with the KLA and close to a million Albanian Kosovars were driven out of Kosovo. Also, the air strikes did cause innocent civilians to be killed. Both sides

14- Thakur, R. (1999), 'The UN and Kosovo's Challenge of Humanitarian Intervention', United Nations University. Link: http://isanet.ccit.arizona.edu/archive/kosovoandun.html.
15- Malmvig, H (2006), 'State Sovereignty and Intervention. A Discourse Analysis of Interventionary and Non-interventionary practices in Kosovo and Algeria', London: Routledge.
16- Charney, J. I (1999), 'Anticipatory Humanitarian Intervention in Kosovo', 93 (4), pp. 834-841.
17- Gray, C. (2008), 'International law and the use of force', Oxford: University Press.

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were deadlocked in their fighting. Both sides had to compromise and they did in order to stop the fighting. As of June 5, 1999 Serbia and NATO signed a peace agreement. NATO achieved that "Serbia agreed to "substantial" autonomy for Kosovo, withdrawal of all Serb military, police and paramilitary forces, a return of all the refugees, and an international armed security presence in Kosovo". Serbia achieved that its territorial integrity would be respected and that Kosovo remains within the sovereignty rights of Yugoslavia[18].

Now, what is the extended value of a responsibility to protect for the international community in cases like those of Kosovo? Those in favor of the intervention have argued that the intervention brought the ethnic cleansing of Kosovo's Albanians to an end. The bombing campaign speeded up the downfall of Slobodan Miloševic's government[19]. Those in favor of the military intervention see Miloševic as responsible for the gross human rights violations and many more war crimes committed. Those opposed to the intervention saw the intervention as being controversial. For instance, Noam Chomsky "condemned NATO's military campaign in Yugoslavia, particularly its aerial bombing which included the bombing of civilian populated territory and resources. The bombing did not create durable solutions with regard to a full respect of the rights of the people living in the territory".

Those in favor of the intervention accepted that "Sometimes principle of territorial integrity has to yield in order to defend a set of values enshrined in human rights law". The Independent International Commission on Kosovo concluded in its report that "the NATO intervention in Kosovo was not legal but legitimate. It was illegal because it did not meet with procedural rules provided by the UN Charter and that the intervention was legitimate because prior to its occurrence all necessary diplomatic means were utilized"[20]. Critics, however, state: "The NATO cure greatly worsened the Milosevic disease". By the end of 1999, a quarter of a million refugees from Kosovo were accounted for. The people in favor of the intervention by NATO on the basis of a moral need of a responsibility to protect base their belief on intervention on cardinal lesson of Srebrenica, during the Bosnia crisis.

In general NATO's actions in Kosovo were internationally accepted. Former UN Secretary-General Kofi Annan was critical on the intervention, and on the indecision by the United Nations to not-intervene. A Resolution proposed by Russia condemning the bombing was defeated in the Security Council 12-3, with only Russia, China, and Namibia voting in favour.

18- Akin, B.M. (2010), 'The Kosovo Crisis and the UN March'. Link: http://www.eurasiacritic.com/articles/kosovo-crisis-and-un.
19- ibid
20- Thakur, R. (1999), 'The UN and Kosovo's Challenge of Humanitarian Intervention', United Nations University. Link: http://isanet.ccit.arizona.edu/archive/kosovoandun.html

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The majority of the international community was convinced that NATO was right to intervene and that the international community has got a responsibility to protect its world citizens.

III. THE CHECHNYA CASE - A MISSING RESPONSIBILITY TO PROTECT

The Chechnya Republic or better known as just Chechnya, is an autonomous republic of the Russian Federation. The opposition in Chechnya fights for complete independence from the Russian Federation and calls its state Itsjkerie.[21] In the nineties of the twentieth century out of Chechnya consisted 93,5 percent Chechen population and 3,7 percent of Russians[22]. The rest were small ethnic minorities. Remarkable is that throughout history except right before the outbreak of the second Chechnya War on August 26, 1999 all religious backgrounds lived peacefully coincided. The fall of communism and the Soviet Republic lead to the search of a common collective identity which decreased the tolerability towards other religious groups. It is remarkable in the case of Chechnya that while gross human rights violations were made by both Russia and the Chechen rebels, the international community did nothing to stop atrocities.

(A) Background of Chechnya Conflict

One of the most important events in history for Chechnya was the arrival of the Russians in the 16th century. The relationship and conflicts between Russian leaders and the Chechen is of great importance to understand the struggles in the twentieth century. The history between Chechnya and Russia started with the realm of the Russian Tsar Ivan the horrible (1556) in which, first tempt to conquer the Caucasus was undertaken. But, it was only until Peter the Great in the beginning of the 18th century that the Russian empire and Chechnya became opposite sides in a struggle for the territory.

In the twentieth century, again there was a rebellion in Northern Caucasus against Russian ruling. During the Russian Civil War, Chechens supported the Bolsheviks in their strife with the hope that this would lead to Chechen independence. But the result was that, they got autonomy on paper, but in reality it was nothing more than just a formality. The Second World War gave hope for the Chechen because the Germans promised them a form of autonomy and respect of Chechen religion, language and culture when they defeated Russia. When Soviet troops started to win from the Germans, Stalin ordered revenge on the Chechen for helping the enemy. The Chechen were deported to Central-Asia in February 1944. Chechnya was wiped of the map and completely integrated as being Russian[23]. When Stalin died in 1953 his successors

21- Hughes, J. (2007), 'From nationalism to jihad', Philadelphia: University of Pennsylvania Press.
22- Tiskov, V.A. (2004), 'Life in a war-torn society', Berkeley: University of California Press.
23- Supra note 20

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did not grant independence or rights to the Chechen. Stalin's successors, however, did allow Chechen to return to what previous was Chechen territory. By 1957 more than 200.000 Chechnya people arrived in former Chechen territory which was occupied by Russian immigrants. The Chechen were seen as secondary citizens and were often discriminated on. The Chechen people did not accept their situation and undertook violent actions against the immigrants who took over their land.[24]

A second reason for the Chechen opposition to live up again is the power struggle in the Kremlin after the breakup of the Former Soviet Union in 1991 which left a power vacuum. Former Chechen General Doedajev saw his chance fit to call out 'The independent state of Chechnya' under the leadership of the Chechen National Congress (CNC) in 1991[25]. The Kremlin tried to get Doedajev out of power by naming a pro-Russian government for Chechnya under the supervision of Avtoerchanov, which failed. Yeltsin, the new Russian leader, felt he had no other chance than to intervene in Chechen territory and bomb Grozny on December 11, 1994. In the first six months, it looked like Russia was on the winning hand, but in reality, Russian army was not ready for such a large-scale operation and decided to negotiate with the Chechen rebels. Doedajev was murdered and Yeltsin negotiated with his successor Jandarbiev after the loss of Grozny by Russia which led to the Khasavyurt- peace agreements in April 1996. This officially ended the first Chechen War.

In January 1997 Chechnya held its first free elections as an independent state. Maschadov got the majority of the votes. Maschadov was a man with a moderate political view who wanted to keep the dialogue with the Kremlin open. War must be avoided, because the people want peace. Downside of the election of Maschadov was that he was not Islamic and a major part of the Chechen politicians wanted to create a Islamic state. Vice-president Basajev laid down his function and joined the Radicals as opposition against Maschadov's government from the Islamic corner. Rebels in favor of a Islamic state attacked neighbor state Dagestan in August 1999 in order to put pressure on the Chechen government and spite Russian reaction[26]. Consequence of this event was that Russian troops for the second time invaded Chechnya on October 1, 1999 and the second Chechnya War was a fact. Russians suspected Chechen government to be behind the attacks on Dagestan and within a short time frame the Russians owned 80 percent of Chechen territory under prime-minister Vladimir Putin.

24- Supra note 19
25- Tiskov, V.A. (2004), 'Life in a war-torn society', Berkeley: University of California Press.
26- Shah, A. (2004), 'Crisis in Chechnya', Published: September 04, 2004. Link: http://www.globalissues.org/article/100/crisis-in-chechnya

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Putin got elected as new president of the Russian Federation in 2000 and named Achmat Kadyrov as new leader of the semi-republic of Russia. Kadyrov was not really pro-Russian, but was seen by the Chechen people as a collaborator with the Kremlin. Russia tried to stabilize Chechnya by investing money in the semi-republic to develop it. This effort did not succeed because of corruption. The Chechen economy deteriorated further. In May 2004, the rebels succeeded in murdering Chechen president Kadyrov through a bomb attack during a parade in Grozny. Russia named the pro-Russian Aloe Alchanov as his successor at the next elections. The Chechen people claim there was election fraud committed and opposed the election of Alchanov. The tensions between Russia and Chechen rebels rose up again.

Both Chechen Wars are known for their violent background. A number of human rights violations was reported during both wars. During the first war the rebels and the Russian troops fought in the civilian-occupied territory in which a lot of innocent civilians lost their lives. The second Chechen War was even more brutal because of the bomb attacks and the specific targeting of civilian casualties. The Russian army used an excessive amount of violence. More than 100.000 Chechen people fled Chechnya. An estimate is that in both wars 100.000 civilians, military and rebellions were killed[27].

From the first Chechen War onward different human rights organizations have warned the international community about the ongoing atrocities committed in Chechnya by both the rebellions and the Russian army. Further, human rights activists and journalist tried to gather prove for the atrocities, but it was very dangerous and hard for them to collect evidence. Several human rights activists and journalists have been murdered because of their investigation or where just collateral damage.

(B) International Community as mere Spectators

The international community did not receive much information about the Russia- Chechen conflict, because of the rigid control of media coverage and the prohibition of human rights observers in the area. The reasons why the International community did not react to the situation in Chechnya were due to self-interested motivations. First, the economic benefits were very important for the decision not to intervene. Chechnya is very important to Russia for its natural resources. The oil- and gas winning is an important revenue for Russia and a lot of states are dependent on Russia for their oil and gas produces[28].

27- ibid

28- Hilsum, L.(2004), ‘ The conflict the west always ignores’, New Statesman. Published January 26, 2004. Link: http://www.globalissues.org/

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The international community was afraid that by criticizing or even intervening in Chechnya would amount to Russia stopping the sale of oil and gas. On the other hand, western states were to benefit from Chechen independence. An independent Chechnya would put Russia out of the oil and gas control in the territory which would establish cheaper oil and gas winning by the western states. A second reason for the international community not to intervene in the crisis was Russia's claim of fighting a war against terrorism. Especially the US saw an important alliance with Russia in the fight against terrorism. Third, as Hilsum[29] summarizes it perfectly: "The international community has instead chosen the path of self-deception, choosing to believe Russia's claims that the situation in Chechnya is stabilizing, and so be spared of making tough decisions about what actions are necessary to stop flagrant abuses and secure the well-being of the people of the region. All the international community could muster were well-intended statements of concern that were never reinforced with political, diplomatic, financial or other consequences. Chechnya was placed on the agenda of the U.N. Commission on Human Rights, the highest human rights body within the U.N. system, but even there a resolution on Chechnya failed to pass".

Other states did not dare to intervene because of Russia being a powerful nation. The U.S. and European governments have broad political and economic agendas with Russia and were hesitant to risk a good relationship. Fourth reason is that Russia is a permanent member of the United Nations Security Council, Russia was able to shield Chechnya from serious U.N. actions. Russia would have vetoed all Security Council Resolutions anyway. This leaves the question open why did states not take actions on bilateral or regional level? In my opinion this had to do with Russia being a powerful state.

Consequence of not being held responsible for the gross human rights violations is that Russia learned an important lesson about the limits of the international community's political will in pursuing human rights when a powerful state is involved. In dealing with Chechnya today, governments and multilateral institutions stress the need for a political solution to end the conflict, rather than pressing for an immediate end to human rights abuses, let alone holding Russia account for them[30].

The only form of criticism that Russia got was from the Organization for Security and Co-operation in Europe (OSCE), the UN Human rights Commission and later on the EU. The OSCE tried to put an end to the conflict, but Russia revoked their right mandate to work in Chechnya.

29- ibid

30- Shah, A. (2004), 'Crisis in Chechnya', Published: September 04, 2004. Link: http://www.globalissues.org/article/100/crisis-in-chechnya

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So, the OSCE could not do much than suspending Russia's voting rights and keep dialogue open. In late 1999, the EU took the measure to freeze certain technical assistance programs with Russia, but never thought about intervening. In 2000 and 2001 the U.N. Human Rights Commission adopted resolutions condemning human rights abuses in Chechnya, but did not follow up on them.

NATO and UN member states could have effectively put an end to conflict in Chechnya as was in Bosnia and Kosovo. The Bosnia intervention ended with the Dayton agreement and in Kosovo a re-establishment of autonomy and the ousting of President Milosevic which created more stability in the area.

Both interventions were without the approval of Russia. It is different in the case of Chechnya because Russia is involved, but that should be an ever bigger reason to intervene for NATO. Human rights abuse by a Security Council permanent member should especially not be tolerated by the international community. The scale of the humanitarian violations in Chechnya is too much to allow selfish motives to dissuade not to intervene. The international community failed in the case of Chechnya in my opinion. Intervening with heavy military power should not have to be an option, but creating safe havens is the least the international community could have done.

IV. THE LIBYA CASE- APPLICATION OF R2P NORM

The Libyan civil war (Libyan revolution) was an armed conflict in the North African state of Libya, fought between forces loyal to Colonel Muammar Gadhafi and those trying to end his government. The protests against Gadhafi started on Tuesday, 15 February 2011, in Benghazi which led to clashes with security forces that fired on the crowd[31]. The protests escalated into a rebellion that spread across the country. The opposition established an interim governing body, the National Transitional Council, which was recognized by the United Nations on 16 September 2011 and replaced the Gaddafi Government. Muammar Gadhafi remained at large until 20 October 2011, when he was captured and killed attempting to escape from Site[32]. The National Transitional Council "declared the liberation of Libya" and the official end of the war on 23 October 2011.

The Libyan civil war was part of a bigger wave of protests going around in the Middle East at that moment. The fighting took about half a year before it officially ended. In practice, however,

31- Claes, J. (2011), 'Libya and the Responsibility to Protect', Published: Center for Conflict Analysis and Prevention, on March 1, 2011. Link: http://www.usip.org/publications/libya-and the-responsibility-to-protect

32- International Coalition for the Responsibility to Protect, 2012. Link: http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-libya

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the fighting is still occurring in Libya. The international community got involved during the civil war because it felt it had a responsibility to protect the Libyan citizens from being targeted and stop other gross human rights violations from taking place. It is interesting to see in the case of Libya that the international community did apply the Responsibility to Protect-norm.

(A) Background to the Libyan Civil War

Muammar Gadhafi became the ruler of Libya in 1969. He abolished the Libyan Constitution of 1951, and adopted laws based on his own ideology The Green Book[33]. He officially stepped down from power in 1977, but held the rains behind the scene until 2011. Under Gadhafi, Libya was theoretically a decentralized, direct democratic state run according to the philosophy of Gadhafi's The Green Book , but according to Freedom House, however, "these structures were often manipulated to ensure the dominance of Gadhafi, who reportedly continued to dominate all aspects of government"[34].

Despite one of the highest unemployment rates in the region, Libya's Human Development Index in 2010 was the highest in Africa. The positive for the civilians was that Libya had welfare systems allowing access to free education, free healthcare, and financial assistance for housing, access to fresh water across large parts of the country, but unfortunately was the government control over every aspect of the daily life of the people.[35]

The protests and confrontations began in on 15 February 2011. On the evening of 15 February, between 500 and 600 demonstrators protested in front of Benghazi's police headquarters after the arrest of human rights lawyer Fathi Terbil. Crowds were armed molotov cocktails and stones on which the Police responded with tear gas, water cannons, and rubber bullets. Libyan security forces fired live ammunition into the armed protests. The rebels are composed primarily of civilians, such as teachers, students, lawyers, and oil workers, and a contingent of professional soldiers that defected from the Libyan Army and joined the rebels. Gadhafi's administration had repeatedly asserted that the rebels included al-Qaeda fighters. NATO's Supreme Allied Commander James G. Stavridis stated that "intelligence reports suggested "flickers" of al-Qaeda activity were present among the rebels, but also added that there is not sufficient information to confirm there is any significant al-Qaeda or terrorist presence. Denials of al-Qaeda membership were issued by the rebels"[36]. International Crisis Group believes this to have been a political

33- Hillstrom, D.(2011), 'The Libyan No Fly Zone: Responsibility to Protect and International Law', Published March 21, 2011. Link: http://www.foreignpolicyjournal.com/2011/03/21/the-libyan-no-fly-zone-responsibility- to protect-and-international-law
34- Supra note 29
35- ibid
36- Supra note 30

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manoeuvre to divert attention away from Gadhafi himself. The Libyan government was convinced that the armed rebellion was composed of mercenaries. But it was actually Gadhafi himself who used mercenaries. Gadhafi forces reportedly surrounded themselves with civilians to protect themselves and key military sites from air strikes. Amnesty International cited claims that Gadhafi had placed his tanks next to civilian facilities, using them as shields. According to Libyan state television, the rebels also used human shields in Misrata[37]. Gadhafi was convinced that the revolt against his rule was the result of a colonialist plot by foreign states, particularly blaming France, the US and the UK, to control oil and enslave the Libyan people. Gaddafi blamed rebel groups of being traitors and engaging into war on terror against their own population. However, The Libyan government were reported to have employed snipers, artillery, helicopter gunships, warplanes, anti-aircraft weaponry, and warships against demonstrations and funeral processions. It was also reported that security forces and foreign mercenaries repeatedly used firearms, including assault rifles and machine guns, as well as knives against protesters. Rebel fighter in hospital in Tripoli Amnesty International also reported that security forces targeted paramedics helping injured protesters. Injured demonstrators were sometimes denied access to hospitals and ambulance transport.

In June 2011, a more detailed investigation carried out by Amnesty International found that many of the allegations against Gadhafi and the Libyan state turned out to either be false or lack any credible evidence, noting that rebels at times appeared to have knowingly made false claims or manufactured evidence and the rebels committed crimes against humanity themselves[38].

By the end of February, Gadhafi's government had lost control of a significant part of Libya. But in March, Gaddafi's forces pushed the rebels back and eventually reached Benghazi and Misrata to recover those cities. By 22 August, rebel fighters had gained entrance into Tripoli and occupied Green Square, which was renamed into Martyrs' Square in memory of those who had died[39]. The NTC captured him on 20 October 2011, and reported that Gaddafi had been killed in the city. The rebels called for a return to the 1952 constitution and a transition to multi-party democracy. The National Transitional Council tried to consolidate efforts for change in the rule of Libya. The main objectives of the group did not include forming an interim government, but instead to co-ordinate resistance efforts between the different towns held in

37- Claes, J. (2011), 'Libya and the Responsibility to Protect', Published: Center for Conflict Analysis and Prevention, on March 1, 2011. Link: http://www.usip.org/publications/libya-and the-responsibility-to-protect
38- ICISS (2001) On the Responsibility to Protect, http://www.iciss.ca/pdf/Commission-Report.pdf
39- Hillstrom, D.(2011), 'The Libyan No Fly Zone: Responsibility to Protect and International Law', Published March 21, 2011. Link: http://www.foreignpolicyjournal.com/2011/03/21/the-libyan-no-fly-zone-responsibility- to protect-and-international-law

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rebel control, and to give a political "face" to the opposition to present to the world.

V. INTERNATIONAL COMMUNITY AND THE USE OF THE RESPONSIBILITY TO PROTECT-NORM

According to a report from the International Crisis Group, "much Western media coverage has from the outset presented a very one-sided view of the logic of events, portraying the protest movement as entirely peaceful and repeatedly suggesting that the government's security forces were unaccountably massacring unarmed demonstrators who presented no security challenge". This established danger of a one-sided view of the international community and put all the blame on the other side while reality was that both sides committed crimes.

On 21 February 2011, the Libyan opposition called on the UN to impose a no-fly zone on all Tripoli to cut off all supplies of arms and mercenaries to the regime. On 19 March 2011 the military intervention in Libya on the basis of United Nations Security Council Resolution 1973 began. That same day, military operations began, with US forces and one British submarine firing cruise missiles, the French Air Force, United States Air Force and British Royal Air Force undertaking ground actions across Libya and a naval blockade was established by the Royal Navy. The effort was initially largely led by the United States. NATO took control of the arms embargo on 23 March, named Operation Unified Protector. An attempt to unify the military command of the air campaign first failed over objections by the French, German, and Turkish governments. On 24 March, NATO agreed to take control of the no-fly zone, while command of targeting ground unit’s remains with coalition forces. Fighting in Libya ended in late October following the death of Muammar Gaddafi, and NATO stated it would end operations over Libya on 31 October 2011. Libya's new government requested that its mission be extended to the end of the year, but on 27 October, the Security Council voted to end NATO's mandate for military action on 31 October.

International reactions to the 2011 military intervention in Libya were diverse. Opponents against the 2011 military intervention in Libya have made allegations of violating the limits imposed upon the intervention by UN Security Council Resolution 1973. At the end of May 2011, Western troops were captured on film in Libya, despite Resolution 1973 specifically forbidding "a foreign occupation force of any form on any part of Libyan territory". In the article, however, it reports that armed Westerners but not Western troops were on the ground. On August 11, after NATO airstrike on Majer that allegedly killed 85 civilians, UN Secretary-General Ban Ki-moon “called on all sides to do as much as possible to avoid killing innocent people”. NATO has been accused of being responsible for the deaths of far more civilians than

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if it had not intervened according to those opposed to the intervention.

In January 2012, independent human rights groups published a report describing these human rights violations and accusing NATO of war crimes. Some critics of Western intervention suggested that resources were the real reasons for the intervention and not democratic or humanitarian concerns. Gaddafi's Libya was known to possess vast resources, particularly in the form of oil reserves and financial capital. Gadhafi himself referred to the intervention as a "colonial crusade...capable of unleashing a full scale war,", a sentiment that was echoed by Russian Prime Minister Vladimir Putin.

However, those in favor of the intervention saw the military intervention in Libya as an example of the Responsibility to Protect policy adopted by the UN at the 2005 World Summit. According to Gareth Evans[40], "The international military intervention (SMH) in Libya is not about bombing for democracy or Muammar Gadhafi's head. Legally, morally, politically, and militarily it has only one justification: protecting the country's people".

(A) The Responsibility to Protect in the Libyan case as the first application of the Norm

A Just War is one that is waged with legitimate authority, with just cause, and right intention. It must be likely to result in the restoration of law and order and the conditions for the fulfillment of human rights; it must be a last resort, and it must be fought proportionally. Finally, it must have a high probability of success: be winnable in the shortest possible time, causing the minimum amount of harm. The difficulty in the case of international engagement in Libya is obvious. Its legitimacy is in doubt; on the one hand, the UNSC has mandated operations to protect civilians; on the other, the governments with authority over NATO forces declared that their policy goal is Gadhafi relinquishing power. it’s hard to separate the one goal from the other. Gadhafi has showed poor governance and abuse of rights and helping him from power is helping the Libyan people so it is a right intention.

Problematic in the case of Libya was also the demands of proportionality and making the distinction between military and civilians, and military necessity. Libya is perhaps the first time the Responsibility to Protect has been invoked so publicly, on such a scale, and used within the UN Security Council to justify a major military action. So the way it is framed and the way it plays out take on importance even greater than the well-being of Libyans; affecting the well-being of future populations whose governments fail to live up to their responsibility. “Getting it wrong may mean years of delay in turning the Responsibility to Protect norm into a doctrine

40- See comments of garath evans on International Coalition for the Responsibility to Protect, 2012. Link: http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-libya

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that's widely accepted and provides legitimacy to protect civilians anywhere and, in the future,."

VI. SYRIAN CRISIS - DILEMMA OVER INTERVENTION UNDER R2P

At this moment, the international community is involved in resolving the crisis in Syria. Gross human rights violations are taking place in different parts of the state. These human rights violations are committed by the government, governmental supporters and by the opposition. Whole villages are said to be murdered by governmental mercenary troops.

Images about the atrocities can hardly reach the outside world, because of limitation on the media by the government. The international community is very concerned about the situation in Syria. This is why the UN sent a large amount of observers to monitor the situation. Also, former-UN Secretary General Kofi Anan is the leading diplomat who is negotiating a peace agreement between the government and the opposition. Until now, the international community mainly observed and recently different states opposed diplomatic and economic sanctions on Syria. But, diplomatic and economic sanctions have not done anything to resolve the violent situation in Syria. Until now, the international community is very reluctant to intervene by military means. The international community has mentioned the Responsibility to Protect-norm in different occasions during this conflict, but until now the norm has not done much to improve the situation in Syria. I am questioning whether or not the Responsibility to Protect-norm is very useful in practice, in a case like Syria. Why does the international community not intervene on the basis of the Responsibility to Protect- norm?

(A) Background to the Syrian Conflict

The Syrian uprising is part of the wider Arab revolts against governments and its leaders. It is a violent conflict that is still ongoing as we speak. The demonstrations across Syria started on January 26th, 2011 and developed into a nationwide uprising by an organized opposition. Protesters demanded the resignation of the Syrian Ba'ath government and more specifically that of President Bashar al-Assad[41]. They protested on the streets for more democracy. The protest started peacefully, but soon the Syrian government had the Syrian Army to stop the uprising. The Syrian army used violent measure to disperse the protesters. The Syrian government denied using violent measures and stated that it is the fault of armed mercenary troops for causing trouble. At the end of 2011, the opposition began to unite itself and started to form fighting units in order to oppose the Syrian Army.

According to the United Nations up to approximately 14.000–19.000 people have been killed,

41- Buchanan, Alan (2003), 'Reforming the International law of Humanitarian Intervention', Cambridge: Cambridge University Press, pp. 130-174.

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of which about half were innocent civilians. The number of people injured or imprisoned is even much higher. The total official UN numbers of Syrian refugees reached around 180.000 people by June, 1 2012[42]. The claims have been contested by the Syrian government. Anti-government rebels have been accused of human rights abuses as well. For instance, kidnapping and executing loyal government citizens. The worst crimes until now have been committed by the Shabiha. The Shabiha are independent mercenaries loyal to the Assad family. They are suspected of killing whole families.

The uprising occurred in almost every city in Syria, except in the two largest cities of Syria: Damascus and Aleppo. These cities stayed loyal to the government. The opposition acknowledged that without mass participation in these two cities, the government will survive and avoid the same fate of Egypt and Tunisia. However, on 1 February 2012 the Free Syrian army claimed that "Fifty percent of Syrian territory is no longer under the control of the regime and that half of the country was now effectively a no-go zone for the security forces"[43].

Reasons behind the conflict are said to be the call for more democracy, more liberties and the establishment of a better economic situation. Until 2011 there was only one political party which was the Ba'ath party of Assad. No other parties were allowed. The media were watched under constant scrutiny and often oppressed by the government. Further, there was an enormous amount of unemployed young adults who were unsatisfied with their social position. Also, the living conditions were deteriorating quickly because the government did not invest in the standard of living of its people.

VII. INTERNATIONAL INVOLVEMENT

Since 12 April 2012, both sides, the Syrian Government and the rebels of the FSA entered a UN mediated ceasefire period negotiated by Kofi Anan. Despite the initial plans to begin the ceasefire on 10 April 2012, both sides still engaged in attacks. On 21 April 2012, the United Nations Security Council adopted resolution 2043 as basis for the United Nations Supervision Mission in Syria (UNSMIS) for an initial 90-day period. Hervé Ladsous, the UN Under-Secretary-General for Peacekeeping Operations, said that "both sides had violated the ceasefire agreement of April 12 and so the agreement was void"[44]. This statement was affirmed by the increased fighting in the second half of May and the Houla massacre. On 29 May 2012, Kofi Annan headed for Syria to start negotiations again. The Free Syrian Army (FSA) was willing

42- International Coalition for the Responsibility to Protect, 2012. Link: http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-syria
43- ibid
44- Supra note 40

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to come to some sort of an agreement with Kofi Annan and announced on 30 May 2012 that they were giving President Assad a 48-hour deadline to abide by an international peace plan to end violence. On 1 June 2012, Assad rejected such a peace plan and promised to crush any anti-regime uprising. The rebel group Free Syrian Army (FSA) announced that it was resuming the fight again.

The situation worsened on June 6, 2012 when 78 civilians were killed in the Al-Qubair massacre committed by pro-government militia, the Shabiha[45]. The UN observers rushed to the village in order to investigate the alleged massacre but were prohibited by the government to go to the city and were forced to retreat.

Information from within Syria remained limited because journalists were not allowed to do their jobs. On 19 December 2011 the only foreign investigation which was allowed by Assad was the independent monitoring mission by the League of Arab States as part of a peace initiative. However, shortly after the mission began reports emerged stating that the Syrian government was obstructing.

The Arab League, the U.S and the EU states all have condemned the use of violence against the protesters committed by government troops and supporters. China and Russia have criticized the government, but advised against sanctions. China and Russia were afraid that sanctions would lead into foreign intervention. However, military intervention has been ruled out by most states. The Arab League suspended Syria's membership over the government's response to the crisis. The latest attempts to resolve the crisis has been made through the appointment of Kofi Annan, as a special peace negotiator to resolve the Syrian crisis. Before March 2012 Russia had shown constant and active support for the Assad government. Russia often vetoed a UN Security Council Resolution, in occurrence with China. Russia has shipped arms during the uprising to Assad's government for use against the rebels. Russian Middle East analyst Alexander Shumlin wrote that "The fall of the Syrian regime will mean the disappearance of Russia's last partner in conducting Soviet-style policies in the Middle East whose essence in many ways boiled down to countering the United States"[46]. Russia has used its UN Security Council position on several occasions to block resolutions that would harm the Syrian government, including the French and British attempts to condemn the use of force by the Syrian government. Russia and China most of all wanted to prohibit another Libyan intervention scenario. When asked if Russia was

45- Supra note 38

46-Hehir, A. (2012), 'Syria and the Responsibility to Protect: Rhetoric Meets Reality', Published: March 14, 2012, available at http://www.e-ir.info/2012/03/14/syria-and-theresponsibility-to-protect-rhetoric-meets-reality/

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supporting the Assad government, the Russian answer was "we are not protecting any regime"[47].

President Barack Obama's administration condemned the use of violence, stating: "The United States stands for a set of universal rights, including the freedom of expression and assembly, and believes that governments, including the Syrian government, must address the legitimate aspirations of their people". On February 24, 2012 after a veto by Russia and China of an Arab League-backed initiative, Clinton condemned Russia and China position by saying "It's quite distressing to see two permanent members of the Security Council using their veto while people are being murdered —women, children, brave young men... It is just despicable and I ask whose side are they on? They are clearly not on the side of the Syrian people"[48]

An application of the Responsibility to Protect norm aspects UN Member States, regional organizations and governments to urgently work together towards making an end to the violent situation. The Security Council in the case of Syria failed to act accordingly due to its consistent inability to form an international consensus around the crisis because of Russia and China. However, on 21 March 2012, the UN Security Council adopted a presidential statement expressing "its gravest concern" regarding the situation in Syria. The statement gave full support to the peace negotiations process lead by the United Nations-Arab League Joint Special Envoy Kofi Annan, and called on the Syrian government and opposition to work with the Envoy towards a peaceful settlement of the Syrian crisis and the implementation of his initial six-point proposal[49]. Between October 2011 and July 2012 Russia and China vetoed three UNSC resolutions aimed at holding the Syrian government accountable for mass atrocity crimes. However, on 27 September 2013 the UNSC adopted Resolution 2118, enabling the expeditious destruction of Syria's chemical weapons stockpile. On 22 February 2014 the UNSC adopted another unanimous resolution demanding that all parties, but especially the Syrian government, immediately allow unhindered humanitarian access, including across borders, to civilians in need. The resolution demanded a halt to violence, called upon all parties to protect civilians, and noted the government's "primary responsibility to protect."[50]

The UN Human Rights Council has adopted twelve resolutions condemning atrocities in Syria. The most recent, passed on 21 March, extended the mandate of the CoI for one year, condemned continued violations of IHL and international human rights law that may amount to war crimes

47- Kuwalil, D. (2012), 'Responsibility to Protect: Why Libya and not Syria?', Published: April 6, 2012. available at www.accord.org.za/.../brief/policy_practice16.pdf
48- See http://mideastafrica.foreignpolicy.com/posts/2012/03/16/syrias_crisis_and_the_future_of_r2p
49- See Joint Special Envoy Kofi Annan Six point peace plan to end Syria crisis http://www.aljazeera.com/news/middleeast/2012/03/2012327153111767387.html
50- See http://www.globalr2p.org/regions/syria

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or crimes against humanity, and demanded that the government uphold its responsibility to protect. An international humanitarian conference for Syria took place in Kuwait on 15 January, during which donors pledged over $2.4 billion, less than half of the $6.5 billion the UN considers necessary to address the "worst humanitarian crisis" in decades.

Syria Crisis – A Mockery of R2P

Despite the ongoing civil war, the first round of the "Geneva II" peace conference, aimed at ending the violence and establishing a transitional governing body in Syria, took place from 22 to 31 January. Representatives from the Syrian government and opposition, as well as approximately 40 other countries and regional organizations, attended. At the conclusion of the talks, the UN-League of Arab States Joint Special Representative, Lakhdar Brahimi, reported no progress towards an agreement. The conference resumed during the week of 10 February. On 15 February Brahimi publicly apologized to the Syrian people for the lack of any substantive progress[51]. On 25 March the League of Arab States began a two-day annual summit in Kuwait, where special envoy Brahimi, speaking on behalf of the UN Secretary-General, appealed for an end the flow of weapons to armed groups in Syria. Saudi Arabia called for the League of Arab States to grant Syria's suspended seat to the National Coalition. Problem is that military intervention in Syria would be a misapplication of the Responsibility to Protect norm and would radically weaken the norm's role in building both a better Middle East. But, staying out of the conflict will also weaken the norm's credibility, because in a situation where gross human rights violations are taking place the international community does nothing to prevent another massacre from happening.

VIII. CONCLUSION

The basis of the Responsibility to Protect norm is still that state sovereignty entails that states are responsible for the lives and welfare of their citizens. But, Responsibility to Protect is more than only military intervention. In fact, the ICISS report states that intervention is only allowed in extreme cases and when certain criteria are met.

Those criteria mirror the moral tests from the just war theory, including the intervention must have a reasonable prospect for achieving success, which in light of the Responsibility to Protect norm entails better protection of civilian life than the status quo. That's the problem with intervention in Syria, namely that it probably leads to more innocent casualties. Airstrikes alone are not fit for Syria because much of the fighting takes place in cities and would cause

51- See timeline for international response in Syria, Global Responsibility to Protect, http://www.globalr2p.org/publications/135

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significant civilian casualties. Also, Assad's forces are too strong and the opposition still too divided to be defeated.

This was different in Libya where the opposition was more united and Qaddafi's forces not that well equipped and organized. But what about using international troops to create safe zones where the resistance could be armed& trained and wounded be taken care of? Kofi Anan has stated: "Understanding the limits of military force in the Syrian case is critical to the viability of the Responsibility to Protect norm as an international norm". A failed intervention would only damage the credibility of the Responsibility to Protect norm for the future. States who are still worried about the use and application of the Responsibility to Protect norm will only doubt the legitimacy of the norm when the mission fails. Developing the norm into a legal doctrine would be impossible when its credibility is lost[52].

On the other side, Syria interventionists do have a point when they say ignoring Syria could damage the doctrine's credibility. To my opinion diplomatic, legal and economic tactics have all been tried in the Syria case, but until now have failed. The Responsibility to Protect needs more international involvement. Even more important, according to me, is that he Syrian situation tests the international community's ability and willingness to apply the Responsibility to Protect norm consistently. Syria, just as Libya, is at a breaking point and action is pressing.

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52-See Hehir, A. (2012), 'Syria and the Responsibility to Protect: Rhetoric Meets Reality', Published: March 14, 2012. Link: http://www.e-ir.info/2012/03/14/syria-and-theresponsibility-to-protect-rhetoric-meets-reality/

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